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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,607	11/12/2003	Alexandar D. Malich	1927/5798	9018

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EXAMINER	
TREMBLAY, MARK STEPHEN	

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/712,607	MALICH, ALEXANDAR D.	
	Examiner	Art Unit	
	Mark Tremblay	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent #5,129,652 to Wilkinson ("Wilkinson" hereinafter). Wilkinson discloses a system for combining pay-for-park transactions and lottery ticket transactions, combining: an arrangement for issuing a parking ticket (see claim 25); an arrangement for selecting lottery numbers during payment of said parking ticket; an arrangement for entering said lottery numbers in at least one lottery; and an arrangement for dispensing at least one lottery ticket (inherent in claim 25, "issuing").

Examiner interprets the words "during payment", like all of the words in the claims, in their broadest reasonable sense. In this case, the holder of the ticket is presumed to pay for parking during the stay in the parking lot. Wilkinson does not specify exactly when the parking ticket is payed. It is within the bounds of the teaching as it would be understood by a skilled artisan that the gambling done by the patron is the payment received. In this case the 102(b) rejection clearly applies. It is also within the bounds of the teaching that the patron could pay up front for the parking ticket-- this is common in the parking business and would be understood to be a normal transaction-- when you receive an item of value, you pay for it at that time. In the same way that it is inherent that a teaching about cars is a teaching about atoms and molecules,

Wilkinson's teaching of a parking ticket is a teaching about paying at the time the ticket is received, within the casino, and when the patron exits. The artisan understands from the teaching that the patron would be required to pay at some point in time, and that time is up to the operator of the parking lot.

Alternatively, it may be argued that since Wilkinson teaches selection of numbers before the ticket is payed, under the presumption that the selection of numbers is the selection of numbers by the machine at the gate upon entrance, and that "during payment" means "when the patron exits the timed parking facility, and pays for the hours or days that the patron had remained in the parking facility). While the examiner believes this argument is based on an unreasonably limited view of the skilled artisan's understanding of the Wilkinson teaching, and that it does not comport with the broadest reasonable interpretation of the claims (which actually have to be expanded by the examiner to arrive at the more limited meaning), the examiner will nevertheless address it with respect to 35 USC 103. Since Wilkinson is silent in claim 25 on the exact timing of payment, and it is not clear whether the casino is technically charging for the parking ticket, the examiner will rely on official notice for evidence of what those in the paid parking industry (and most of the general car-driving public) understand. Official Notice is taken that parking facilities which receive a flat-rate, up-front parking fee were well known to those having ordinary skill in the art at the time the invention was made. In general, there are only a few main types of parking facilities. Parking facilities with meters, with monthly parking passes, with timed hourly parking, and with a flat rate for a whole day are all well known and common in the art. With Wilkinson's teaching, the most relevant are timed hourly parking and flat rate parking. The flat rate parking, which is paid up front and at the time the ticket is received, makes the most sense for Wilkinson. First, Wilkinson clearly does not want the patron to hurry away from the casino, so forcing the patron to pay more the longer he stays would run counter to the teaching. But, giving a free chance to win a lottery might invite freeloaders, who have no money, but want a free lottery ticket. Wilkinson is clearly teaching giving out two valuable things to the patron: a lottery ticket and a parking space. It is only obvious to charge money for these things at the time they are given. The casino may well have trouble collecting if the patron gambles all their money away before getting in the car to leave. In the casino business, this is the general object: to entice a patron into gambling as much

of their money as possible, until they lose it. The odds are, that is what will happen. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the patron pay for the lottery/parking ticket at the time time the ticket is issued because up-front payment for parking tickets was well known in the art. Further, up front payment of lottery tickets is standard in the gambling arts, and this would have been obvious to avoid freeloading and unpaid chances.

Response to Arguments

Applicant argues that Wilkinson does not apply because Wilkinson encourages the patron to use the casino, rather than the parking lot itself. Examiner respectfully disagrees with this line of reasoning. Applicant assumes that the parking ticket is paid upon leaving in Wilkinson. Examiner finds no basis in Wilkinson or in the general knowledge of the skilled artisan for this assumption. Further, the claims do not specify that the parking patron is leaving when the ticket is being paid.

Applicant also assumes that the only reason to issue a parking ticket is to keep track of the time the patron is in the parking lot, so they can be charged accordingly for that time. The Examiner also respectfully disagrees with this assumption, and the line of reasoning predicated upon it. Wilkinson clearly has other motives for keeping track of the patrons parking time, and this is explicitly laid out in the reference. As examiner explains above, charging up front for the parking ticket is an alternative inherent in the teaching, in the same way that atoms and molecules are alternatives inherent in the teaching of a car. Moreover, it is the most obvious alternative, to avoid freeloading and non-payment of lottery chances.

With respect to Nippon, that rejection has been withdrawn, and the arguments are moot.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Voice

Inquiries for the Examiner should be directed to Mark Tremblay at (571) 272-2408. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (571) 272-2398. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.

MARK TREMBLAY
PRIMARY EXAMINER

February 7, 2005